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OFFICE OF THE STATE COMPTROLLER

July 20, 2023

James V. McDonald, M.D., M.P.H.  
Commissioner  
Department of Health  
Corning Tower  
Empire State Plaza  
Albany, NY 12237

Re: Improper Supplemental Maternity  
Capitation Payments to Managed  
Care Organizations  
Report 2023-F-3

Dear Dr. McDonald:

Pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law, we have followed up on the actions taken by officials of the Department of Health to implement the recommendations contained in our initial audit report, *Improper Supplemental Maternity Capitation Payments to Managed Care Organizations* (Report [2020-S-57](#)).

**Background, Scope, and Objective**

The Medicaid program is administered by the Department of Health (Department). Many of the State's Medicaid recipients receive their services through managed care, whereby the Department pays managed care organizations (MCOs) a monthly premium for each enrolled recipient and, in turn, the MCOs pay for services their members require. In addition to the monthly premiums, MCOs can receive a one-time Supplemental Maternity Capitation Payment (SMCP) for the prenatal and postpartum physician care and hospital or birthing center delivery costs associated with the maternity care of a recipient. However, MCOs are not eligible to receive SMCPs for maternity cases that end in termination or a miscarriage, as these are considered reimbursed to the MCO through the monthly premium for the recipient. Further, an MCO is only eligible to receive the SMCP if it submits encounter claim data as evidence of the delivery and any other inpatient and outpatient services for the maternity care of the recipient.

We issued our initial report on November 29, 2021. The audit objective was to determine whether Medicaid made improper SMCPs to MCOs. The audit covered the period August 1, 2015 through July 31, 2020. We found about \$55 million in improper and questionable SMCPs to MCOs, including \$29.1 million that was paid without the required supporting encounter data, \$23.4 million that was paid where the encounter data or other evidence indicated the maternity case ended in termination or miscarriage, and \$2.4 million that was paid when the SMCP date of service preceded the birth by 1 to 6 months. We determined the Department's eMedNY claims processing system did not have access to maternity encounter data to verify that SMCP

claims were eligible for reimbursement. Instead, the Department relied on audits by the Office of the Medicaid Inspector General (OMIG) to identify and recoup inappropriate SMCPs. However, we found OMIG was not performing these audits in a timely manner and the audits were not sufficiently inclusive to capture all improper SMCPs.

The objective of our follow-up was to assess the extent of implementation, as of May 23, 2023, of the six recommendations included in our initial audit report.

### **Summary Conclusions and Status of Audit Recommendations**

Department officials made some progress in addressing the problems we identified in the initial audit report, but additional actions are still required. For example, a significant portion of the questionable claims we identified have not been reviewed, and the Department has not followed up with the 10 MCOs identified in our initial audit to ensure issues with their claims processing systems were resolved. Of the initial report's six audit recommendations, three were partially implemented and three were not implemented.

### **Follow-Up Observations**

#### **Recommendation 1**

*Review the \$205,323 in unadjusted SMCPs where the MCOs agreed they were not entitled to the payments and make recoveries as appropriate.*

Status – Partially Implemented

Agency Action – OMIG investigates and recovers improper Medicaid payments on behalf of the Department. At the time of our follow-up, 18 of the 21 (86%) unadjusted claims included in the initial audit had been voided or recovered. The remaining three claims totaling \$28,761 still needed to be resolved.

#### **Recommendation 2**

*Review the \$52,447,910 in SMCPs to MCOs that did not meet the criteria outlined in the Contract – beginning with the high-risk subpopulations discussed in this report – and determine an appropriate course of action, including making recoveries as well as requiring MCOs to submit missing encounter claims and reversing any unsupported SMCPs.*

Status – Partially Implemented

Agency Action – Almost \$10 million in claims have been voided by MCOs or recovered by OMIG. However, we note that OMIG may have already lost the opportunity to recover almost \$24.8 million in claims we identified due to federal look-back provisions. We encourage the Department and OMIG to take prompt action on the remaining payments we identified to prevent further loss of recoveries.

#### **Recommendation 3**

*Formally remind MCOs of the SMCP Contract criteria for payment.*

Status – Not Implemented

Agency Action – Department officials stated that they are working to develop guidance to remind MCOs of the Medicaid Managed Care Model Contract (Contract) criteria for SMCPs.

However, the guidance is still a work in progress and has not been issued to the MCOs. We encourage the Department to prioritize the development and issuance of this guidance to ensure MCOs are aware of SMCP Contract requirements.

#### **Recommendation 4**

*Ensure the 10 MCOs identified in this audit take corrective steps to resolve the identified problems in their claims processing systems pertaining to improper SMCP claims.*

Status – Not Implemented

Agency Action – Our initial audit found that issues with MCOs' claims processing systems led to improper SMCPs, such as when MCO encounters contained conflicting diagnoses (e.g., termination or miscarriage as well as live birth or stillbirth), or when the SMCP claim was submitted prior to the date of the live birth on the corresponding encounter.

Department officials indicated that they were still working to determine the best method to contact the 10 MCOs and officials were unable to provide documentation to support that any action had been taken. We encourage the Department to work with the MCOs to ensure system problems are promptly corrected to prevent additional improper SMCP payments.

#### **Recommendation 5**

*Routinely monitor the accuracy of SMCP claims and take formal corrective actions with non-compliant MCOs including, but not limited to, those that:*

- *Do not submit encounter data as evidence of maternity care and delivery services before billing for SMCPs; and*
- *Submit claims for SMCPs that have conflicting supporting encounter information (such as conflicting dates of birth and encounter data that indicates maternity cases ended in termination or miscarriage).*

Status – Not Implemented

Agency Action – As stated in the Agency Action section of Recommendation 4, our initial audit found certain improper SMCPs occurred because of issues with MCO claims processing systems. The Department relies on OMIG to audit SMCP claims and to recover improper payments where applicable. However, OMIG does not monitor the MCOs to ensure actions are taken to correct the issues that led to the improper payments. The Department has not taken any action to develop routine monitoring of SMCP claims and therefore has not taken formal corrective actions with non-compliant MCOs.

#### **Recommendation 6**

*Ensure OMIG updates its audit processes for identifying improper SMCPs. Updates should include, but not be limited to:*

- *Performing audits more timely;*
- *Using all applicable diagnosis codes; and*
- *Examining the higher-risk categories identified in our audit, including:*

- *When the corresponding GME or encounter claim indicates termination or miscarriage and a gestation period of less than 20 weeks;*
- *When the corresponding GME or encounter claim indicates a gestation period of less than 20 weeks and there is no CIN within the mother's Medicaid case that has a date of birth within 31 days of the SMCP service date; and*
- *When there is no corresponding encounter claim of a live birth or stillbirth that occurred within 31 days of the SMCP service date and there is no CIN within the mother's Medicaid case that has a date of birth within 31 days of the SMCP service date.*

Status – Partially Implemented

Agency Action – Our initial audit found OMIG's audits of SMCPs were not done timely, and the last completed audit was not sufficient to capture all improper SMCPs. For example, at the time of our initial audit fieldwork testing in 2021, OMIG's last SMCP audit covered a period that ended December 31, 2016. In addition, the diagnosis codes OMIG used to determine the actual outcome of maternity cases did not contain all relevant codes; therefore, the audit was less effective in identifying all improper payments.

OMIG has improved its audit timeliness. As of May 23, 2023, the most recent SMCP audits completed included audit scopes that ended July 31, 2020. OMIG is also in the process of enhancing its SMCP audit process to include additional high-risk areas (and diagnosis codes) that can result in identification of additional improper SMCP payments, such as cases that end in termination or miscarriage. Although the changes have not yet been implemented, OMIG officials provided an updated audit plan for future SMCP audit cycles that includes these changes.

Major contributors to this report were Vicki Wilkins, Nareen Jarrett, Jeanne Hui, and Julissa Guzman.

We would appreciate your response to this report within 30 days, indicating any actions planned to address the unresolved issues discussed in this report. We thank the management and staff of the Department for the courtesies and cooperation extended to our auditors during this follow-up.

Very truly yours,

Christopher Morris  
Audit Manager

cc: Melissa Fiore, Department of Health  
Frank T. Walsh, Jr., Office of the Medicaid Inspector General